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POPULARLY CALLED

"RAILWAY POOLS,"

BY

G. R. BLANCHARD.

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TRAFFIC UNITY, POPULARLY TERMED "RAILWAY POOLS."

Editor Chicago Railway Review:

The prevailing misconception of "pools," more among people at large, than the railway patrons most interested in their actual purposes scope and effects, is that they are combinations of rival railways to enforce excessive charges, to put all the receipts from parallel traffic into a joint purse, and arbitrarily share its contents; and that for these and other reasons they should be declared unlawful. On this question Mr. L. E. Chittenden, an able opponent of the railways, said to a Congressional Committee, January 29, of this year:

"*A contract between companies to establish rates is not a pool-*
" *ing contract.* The pooling element is when you bring the
" earnings of all these roads into a common fund and divide them,
" not according to the service performed, but by some other rule,
" which * * * * must involve, somewhere in its opera-
" tion, unreasonable rates."

If rates are alike under "contracts" and "pools," and reasonable under both, then hostility to "pools" is hostility to any established rates, and to antagonize traffic unity and proper divisions of tonnage or revenues between the carriers alone involved, is merely to antagonize any equitable plan for maintaining established reasonable rates.

Rates have for years been made without "pools," and must continue to be, whether "pools" exist or not, and no "pool" would now be required if the reasonable rates made by other necessary and public methods were observed in good faith.

I demur, however, to calling the freight federations that have the widest publicity by the name of "pools," although in deference to usage and brevity I shall often use that term herein. Popularly applied the phrase means concealment, trickery, and chance, like pools sold on horse races, or blind pools in stocks, as distinguished from the frankness and certainty intended by the railways. They are really co-operative associations, by which both parallel and connecting railways secure and divide the aggregate tonnages of cities or districts at reasonable, competitive, and stable rates, in the same proportions, as near as arbitration can decide them, in which the public has divided its like tonnage between the same railways through long continuing prior periods, at equal rates.

They are the equalizing machinery, or fly-wheels of rates, to secure non-preferential, and therefore *legal*, charges, which the common, statute and commercial law requires of railways as common carriers for the public interest, as against other railways, localities and forwarders that would make them unequal, preferential and discriminating and therefore *illegal*. Beyond this they are the railway ordinances and sheriffs that prescribe justice and preserve order and compel the return at its full value to the honest railway, of traffic stolen by deception, if the theft cannot first be prevented.

SOME FORM OF AGREEMENT UPON RATES NECESSARY.

That rates must be established by some form of agreement is more a public than a railway necessity, because railways can make and change rates without conference with forwarders, but forwarders *must* know from the railways, the rates, conditions, classifications, etc., to which they are subject.

What chaos would overwhelm trade at Chicago, for example, if every railway made its own antagonistic rates, conditions and penalties, independently of its rivals, between that city and the myriad points they all reach. There would be no mercantile certainties; and the inequalities, discriminations against people and districts, and the fortunes, failures, etc., which would follow, would clearly be no less if one gigantic corporation managed every railway from Chicago and made different rates for each

forwarder or point at its uncontrolled prejudice and will, than if twenty railways did the same thing.

If this supposititious condition existed everywhere, the consequent confusion of national trade under non-agreed rates would compel legislation, if railway uniformity, unity, inter-dependence and publicity, as commercial essentials, could not be otherwise secured. Commerce now uses the railways so much, that trade equality is based upon equal railway rates; the public therefore has a right to ask equality of charges under equal conditions from all competing railways, and logically the railways *must* ask it of each other. If a railway factiously declines such fair and requisite unity and parity, it contemplates some wrong against a competitor or the public, and although it may do like or greater wrongs if it does agree to them, it will more certainly disturb those harmonious conditions if it *declines* to make proper agreements.

Attempts were formerly made, to secure a semblance of this desirable railway unity and public parity, by isolated and diverse action in various cities and States, but they failed—as they must always fail—from want of uniform action.

A rail carrier from Baltimore then made rates too much below those from New York and regardless of the latter's personal, mercantile, or geographical rights. Philadelphia railways did the same in its behalf as opposed to New York and Boston, and Boston sometimes defended itself by making rates lower than from New York. In guarding its coffee imports against diversion to New Orleans, Baltimore rated that particular article without reference to the harm that might result at New York; and Philadelphia in attempting to grasp a larger sugar trade by special rates, injured the same interest everywhere else at the seaboard. St. Louis railways made rates to divert the traffic of Chicago, and Chicago railways in defense and retaliation, made rates that bore no fair geographical or trade relation to St. Louis, and therefore hurt Peoria, Indianapolis and other points, whose rates, like houses of cards, went down one by one with the blow that touched only the first. Each city enlisted its strongest railway in a special crusade in its behalf, regardless of the rights of others or the general interest. Classifications differed, concealments thrived and jealousies of railways and localities grew,

because, instead of being stimulated to harmony, they were thus urged to discord. There was no central organization to procure evidence, condense and tabulate facts, dissipate rumors, stimulate fair dealing, correct wrong, promote uniformity, reconcile differences or nationalize some good system to those ends.

DISCORD UNDER THE OLD SYSTEM OF RATES.

Great public wrongs and mercantile discord unquestionably resulted from the foregoing counter-action, and also from the attempts of older railways to prevent new ones from securing traffic in what the older arbitrarily regarded as either due or undue proportions, and in the equally arbitrary determination of the newer roads to maintain their rights. In these latter aims, each railway enlisted a set of business champions, called "our shippers," who in return for their business were fed on palatable drawbacks, preferential car supply, free passes, etc. Merchants with the largest resources, and needing the least aid, were usually the chosen beneficiaries. The concessions paid to their tonnage and influence farther increased their capital and resources, until they became the preferential patrons of railways that should have been *common* carriers, and seized the traffic of other firms or deterred new ones from being established. The localities of these contests became centers that unduly absorbed the smaller tonnages of adjacent towns, lower rates often ensued at the railway junctions than at near by local points, and this brief epitome was repeated in far too many instances.

The gainers could only be a few preferred forwarders and localities, or a powerful railway, but the losers were the mercantile and investing publics, needlessly wronged by wasteful losses and unjust preferences. I do not say such has been the railway rule, but I am stating plainly causes that led to many wrongs. In a majority of such struggles no doubt current "agreements on rates, which is not pooling," were frequently made, broken, renewed, again shattered, made tighter with some *whereases* and *resolves*, and then broken again by a fight in which yet lower freight rates prevailed, and more persons and localities were harmed. The newer or older, or poorer or richer, or shorter or longer railways as cases might differ, tried to injure others or "their shippers," as

excuses or policies actuated them. Sometimes it was the weak struggling for traffic and genteelly blackmailing the strong, sometimes it was the stronger trying to crush the weaker newcomer by forcing rates "to the bottom," etc. Each forwarder so gained, was a questionable triumph of one firm and some gross dollars if there were no net earnings. Some forwarders, anxious to force their own profits, often used dishonorable means to that end. The more formal railway contract usually ensued from this bitterness; better faith, perchance; often higher rates to compensate for prior folly and losses; trade resumed more normal railway as well as public conditions; and all this was, perhaps, followed again by a renewal of a similar contest. This is a true if humiliating silhouette of railway folly, and represents what the modern transportation reformer calls competition, and desires to perpetuate, but which is really railway assassination and unjust discrimination, which should be legally stopped or punished.

The wrongs the public has suffered from such railway impolicy are now too well recognized to permit any intelligent defence; but what did railways achieve during and after such dissensions? Their gross tonnage records on the traffic involved, usually fluctuated within such narrow limits as to surprise the contestants when the battle and accounts were cleared; but the gross revenues were more affected, and the net incomes in yet greater and more wrongful proportions. Every wrong so indicated to the transporter and the forwarder could have been avoided by unity, conference and arbitration.

These private and railway contentions would have resulted in earlier corporate and public evils but for the civil war and the enormous growth of traffic and railways which ensued; but after the business collapse of 1873 those evils thrived with new vigor until they culminated in 1876 and 1877 in a prolonged railway war to secure the lesser tonnage moving, and in a contest of New York against Baltimore, which time has proven was needless. Unjust discriminations and preferences increased, and disturbed trade in the same localities. Railway revenues were squandered in folly, not competition, and combined action to arrest this condition became quite as much a public as a railway need.

ORIGIN AND ORGANIZATION OF THE TRUNK LINE COMMISSION.

In 1877 these causes led to the organization of a Railway Commission, consisting of one delegate from each Trunk Line, with Mr. Albert Fink as Commissioner, and he has described its formation as follows :

" The great dissatisfaction that existed in 1876 and part of " 1877, during a prolonged railroad war, will be remembered ; " and also the efforts made by the Chamber of Commerce of this " city, and their call for State and National legislation to put a " stop to a state of affairs so disastrous to the commercial " interests.

" In July, 1877, the trunk lines carrying the westbound traffic " from New York, recognizing the justice of these complaints, " and each unable to control the tariff individually, formed an " association, and agreed that each company would thereafter " strictly adhere to the established tariffs, which were then con- " sidered reasonable and just ; that all underbidding on the part " of one railroad against another by secret rates and rebates " should cease ; that no unjust discrimination should be made " between shippers.

" For the purpose of better carrying out this object, and to " remove the motive for underbidding and payment of rebates, " an amount of traffic considered equal to that which each trunk " line would carry under a maintenance of equal rates was mutu- " ally conceded to each company. This, however, is merely a " subsidiary measure of no importance to the public, the only " object of which is the maintenance of published tariffs."

The purposes, growth and scope of this agreement have been so assailed that I here copy its preamble, which expresses the essence of all railway " pools " as it does justice to the railways :—

" For the purpose of maintaining reasonable and uniform rates " of freight to all shippers and of preventing unnecessary and in- " jurious competition," etc.

To this organized nucleus and purpose, other railways were each asked to send one delegate for co-operation. This aggregate delegation is called the Joint Executive Committee, but if Western members cannot attend, they depute members on the Trunk Line Executive Committee to act for them, which therefore becomes a Standing Committee. These Committees consider multifarious freight and passenger questions arising over a vast area and tonnage, and among diverse and antagonistic as

well as harmonious, carrying and public interests. With the phenomenal railway and tonnage growth of the nation, the subjects and issues thus presented and acted upon could not be treated in the old ways described without a babel of trade and railway confusion.

Mr. Fink was made chairman of both these committees to secure neutral rulings and recommendations. If any member declines his rulings or advice, arbitration then decides the appeals.

The public at first sight has little concern in the *personnel* of such Boards, but it has much interest when private or geographical rights are involved. Therefore, to give even to railway arbitration a semi-public character, Mr. Charles Francis Adams, Jr., an able student of the railway problem, who did most to make the Massachusetts Railway Commission the model State railway organization, was chosen by the railways as their Arbitrator. In the same spirit, and under this same abused "pool," Hon. A. G. Thurman, Hon. E. B. Washburne, and Hon. T. M. Cooley were chosen by the railways as an Advisory Commission to determine the relative differences in rates between Baltimore and New York. Those amicable conclusions never could have been reached under old railway methods and antagonisms.

The proceedings of these various committees are published and sent to all their members. There is no secrecy about their deliberations. The statistics are furnished daily, weekly, monthly and annually. The arguments before the Board are printed, and its decisions are published. The newspapers publish their material action as rapidly as they act, and public sentiment reacts promptly on the slightest cause.

The *westward* New York commission was originally composed of four trunk lines, but now includes the Lackawanna and West Shore routes, six railways in all. It terminates with the trunk lines proper, at Lake Erie and the Ohio River, and no railway beyond them is bound by its westward action. Boston, Philadelphia and Baltimore are organized on the same basis. The Erie Canal, the routes via New London and Ogdensburg, the Chesapeake and Ohio, and the Virginia and Tennessee and Memphis and Charleston railway routes, are not parties to it, and never have

been, and all these competing routes but the canal are continuously competitive.

The four trunk lines had been opened over twenty years when they so organized. Their relative positions through those years of railway war, harmony, weakness, power and preference, were represented by the proportions in which the public had delivered its tonnage to each. No money purses, penalties or forfeits were provided, but each company agreed to make actual transfers of the tonnage it received in excess of its agreed or awarded percentage, to the roads in deficit, on the order of Mr. Fink, who kept the records. January 1, 1884, it was further agreed that for tonnage not so transferred, an amount per ton equal to about twenty per cent. of the Chicago rate on the same class should be paid into a fund, from which it would be refunded when the company paying had turned over the actual freight, but that payment is a purely secondary purpose and obligation.

The *eastward* Trunk Line association does not yet include the Lackawanna or West Shore by percentages, but does include the Grand Trunk, so there are but five parties to it, and under it the eastbound tariff rates are lower to-day, with navigation not opened, than ever before at this season. If they are *not* harmonious rates, it proves that competition is not stopped by federated railway organization. If they *are*, the Commission must have due credit for them. There are other eastbound associations organized upon principles identical with those described, but only from Chicago, St. Louis and Cincinnati. Eastbound traffic from Louisville, Indianapolis, Peoria, Cleveland, Toledo, Detroit, Milwaukee, etc., etc., is not yet divided, and that fact is one of the causes of the weakness and instability of reasonable rates. At present, only about twenty-five per cent. of the eastbound traffic which comes to the Trunk Lines is divided from its starting points in any form of "pool," and much of that fraction is not apportioned on the intermediate lines; as, for example, the Cleveland, Columbus, Cincinnati and Indianapolis Railway has no "pool" upon the St. Louis or Louisville traffic it carries.

TRAFFIC UNITY HAS REDUCED RATES AND INCREASED TONNAGE.

The foregoing are the objects and organization of the Commission frankly displayed. What has it accomplished as to rates?

When it went into effect the rates, in cents per 100 pounds, from New York to Chicago, on which all others are based, as hereinafter shown, were:

	Classes.					
	1	2	3	4	5	special.
In 1877	100	80	60	45	..	..
Highest tariff since	75	60	50	40	35	30
Lowest tariff since	45	32	26	19	..	..
Present tariff	75	60	45	35	25	

Corresponding reductions have been made from every Atlantic coast city, and from interior points as well. Large and small merchants in all trades in all parts of the country, have therefore secured lower westward rates by this railway co-operation in an average of 25 per cent. Large reductions have been made eastwardly in the same period, as follows:

Chicago to New York.	Classes.							
	1	2	3	4	5	6	7	8
In July, 1877	120	90	70	70	70	70	25	20
Present rates	100	85	70	60	50	45	20	15

The general tendency of traffic organization to reduce rates is farther noticeable and proven. The Southern Railway Association, organized nine years since, has reduced first-class rates from New York to Atlanta, from 1.70 per 100 pounds in 1875 to 1.14 at this time.

The Southwestern Railway Association, between Chicago and Kansas City, etc., has reduced rates in five years, from 35 cents on grain to 20 cents at this time.

A yet broader comparison shows that in 1880 the average rate in New York State was 0.9 of one cent per ton per mile. In Belgium it was 1.65 cents; in France 1.5 cents; in Prussia, about 2 cents, and in England, about double that of New York. Can mere abstract attacks on traffic unity because it is publicly called a "pool," and not against actual beneficial results, answer this international proof that our rates are both limited and reasonable?

A further important fact as to rates in all sections of the country, is that there is no fixed or apparent relation between a railway company's stocks and bonds, and its charges for transportation.

There is not an important railway in any of the traffic federations I have cited, that has not added junior mortgages, debentures, or floating debts to its payable obligations, while it has reduced rates. The general public has, in every case, largely benefited by the certainties of lessened charges, while the railway investor or speculator has taken the uncertainties of losses and profits on their securities. Northern Pacific preferred may drop from par to 45, or advance again to 90, but the cost of the property remains the same, and its freighters pay steady or descending rates, lower than ever before to and from Oregon, although that railway is in the California "pool."

"No well-informed man now brings charges of extortion against "the railroads of the country as a whole, or against pooled lines. " * * * Pools certainly do not encourage extor- "tion. In nearly every instance, complaints now preferred relate "to discriminations against individuals or against local traffic."—*St. Louis Globe-Democrat, September* 19, 1883.

The westbound tonnage from New York in 1878, the first entire year of the "pool," was 715,808 tons, which was increased to 1,198,097 tons in 1881, and in 1882, to 1,363,708 tons, or it has nearly doubled in five years. Clearly the Trunk Line organization benefited New York commerce if results confirm anything.

This unity has aided other seaboard cities and preserved their relative geographical and therefore their individual rights. The gross Boston tonnage, westbound, which was 147,065 tons in 1878, increased under the "pool" to 335,814 tons in 1882. Interior New England points increased in the same time from 34,946 tons to 106,897 tons, and Philadelphia, which forwarded 212,798 tons in 1879, increased under the operation of the equities I have detailed, to 320,082 tons in 1882.

GEOGRAPHICAL DISCRIMINATIONS STOPPED BY CO-OPERATION.

Traffic unity has done yet more to lessen geographical dissension, which intensifies personal discriminations, for if all merchants in a district are treated fairly, as compared with those in another section, personal wrongs in both localities will more rapidly disappear. By bringing together in a Joint Executive Committee, railways representing all sections and interests, mutual concessions have taken the place of arbitrary and sectional views, wrongs

have been admitted and rectified, unequal practices made uniform, and in no other way could so many good results have been achieved.

Mr. Charles S. Smith, of the New York Chamber of Commerce, said pools "*utterly abrogate what little protection there is for the "public in the natural competition of the various cities.*" Let us dissect this statement:

The largest through railway traffic passes between New York and Chicago, and the most direct and best organized rivalry of water to rail is between the same points. The rates between those cities are, for these combined reasons, laid first, on all classes and in both directions, as the corner-stones of the whole edifice of united rates. Every rate between New York City and every point east of the Pacific is then based *in some manner* on those rates to Chicago, either by a percentage of the Chicago rates, as distances are greater or less than the Chicago distance, or by adding the arbitrary rates of local roads that decline to prorate, to the rates on this Chicago basis to the nearest points that *do* prorate.

Every through rate under "pool" influence westward, is then made the same from Boston as from New York, and less by fixed differences from Philadelphia and Baltimore than from New York. The present rate on sugar from New York to Chicago is 25 cents per 100 pounds, and from Philadelphia to Indianapolis it is but 22 cents. At 25 cents, there is direct water rivalry the entire distance; at 22 cents, there is none for any part of the distance; yet both are made by rail as if both encountered like water competition. The latter should not be lower than the former on mere *competitive* rules, but it is so under the federated system of geographical equalizing. If any local or national procedure can be fairer, simpler, or make rates more reasonable, will some respondent say what it should be?

Again, the Baltimore and Ohio Company demands lower rates from the west to Baltimore than to New York, in order to equalize its shorter rail distance with its longer ocean carriage. Although the rail route to Baltimore does not compete with water, while to New York it does, nevertheless fair geographical and distance rights are conceded to every interior point as compared with Chicago in the west, and to Baltimore and Philadel-

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phia as compared with New York in the east, and this other broad principle is adopted into the general rate basis eastward.

Although, therefore, a great tonnage goes from New York to Chicago and but a few cases of thread, for example, from Willimantic, Conn., to Dayton, Ohio, the latter, as a purely inland transaction, gets every benefit of the former which is reduced by water limits; and this inland or local geographical parity, has been achieved under and by virtue of the same co-operative tonnage agreements.

The co-operative system of traffic distribution further recognizes the competition of carriers to the *same* points because it has removed no stimulus that each endeavor to secure its full competitive share of tonnage at equal rates. If they do not do so their percentages may be reduced. This, however, induces every company to secure business by the best methods and facilities rather than by paying drawbacks; and if the money wasted in needless rebates in the past ten years had been invested in judicious betterments and improvements, as the legitimate right arms of true competition, the public would have had great and permanent benefits, instead of great, if transient, evils. The construction of new roads and the new control of old roads are also recognized as factors entitling the controlling line to the increased traffic they bring it, and reducing at the same time, in proper proportions, the tonnage of the older lines from which they divert traffic.

Co-operative organization also encourages competition at rival cities. How long, for example, would the Pennsylvania Railroad continue indifferent to its Philadelphia city interests, merely because it might make more gross money from the longer haul of a larger tonnage pooled at New York? A stronger reason is that the Pennsylvania Railroad Company now carries 69 per cent. of the tonnage from Philadelphia, and about 27 per cent. from New York, and the Baltimore and Ohio Company, which takes 70 per cent. of the Baltimore tonnage, carries less than 10 per cent. from New York. Aside, therefore, from questions of State and city traditions, pride and ownership, which States and cities will not permit those railways to ignore, the railways, from motives of self interest, exert their best powers in behalf of the cities from which they receive the largest percentages of tonnage and revenue.

The same reasoning would apply to the Grand Trunk at Montreal and the Chesapeake and Ohio at Richmond, if they were "pooled."

RAILWAYS AND FORWARDERS PROTECTED AND EQUALIZED.

This organization has furthermore stopped discriminations by railways against railways, curbed the stronger, protected and encouraged the weaker lines, and thus retarded the growth of railway and personal monopoly.

The sensible advocates of unified, co-operative, inter-dependent management recognize the fact that no railway can be wiped out. Once built and a rival, always a rival; once to carry *any* tonnage, is always to carry *some* tonnage. It is not a question whether the new carrier was needed, it is there under the law; its construction may have been most unwise, bankruptcy may follow it and others, but it is there. The bankrupt individual goes away or sinks into business oblivion, but the bankrupt railway is often noisier and more hurtful than if solvent, because it stays there and always competes. If the laws stimulated its construction against old lines, the same laws and the old lines owe it reasonable recognition afterward.

A new railway therefore always divides the business at its common points with the older companies, in *some* proportions at *some* rates, and usually with small variations when its traffic powers are finally in efficient and vigilant effect. That is all any "pool" can do, and railway co-operation recognizes such facts in order to accomplish fair results through the avenues of discretion and not discord, and through equities instead of enmities. The result is always better for every interest involved, and the better the faith the better the result.

Let us suppose two cases. In each a new railway is built through an important point before local to one older railway. In one case a foolish contest ensues, outlined herein. In the other, co-operative unity is established at reasonable standards of rates having due relation to other points. The older line concedes one-third the traffic to the new comer, which the new line agrees to accept.

The shippers who seek to break such agreements find in going from one to the other railway, that both are steadfast and

fair to themselves and the public, their rates are alike, their regulations similar, their deliveries equally prompt, and all without preferential rates or favors, and the forwarders and receivers soon buy and sell upon those ascertained certainties.

If cars are lacking on one line the rival supplies them, if a flood or accident occurs to one route, the uninterrupted line replaces it, and the public has two co-operating instead of antagonistic lines, honestly serving a common community of traffic with the increased facilities, which under this system they can afford to provide. At the same time adjacent localities are not injured, nor are their trades or industries attacked or diverted by higher local rates.

What matters it then to forwarders into what shares or in what manner the railways divide that traffic? There *must* be a point where the rates are reasonable, there *must* be a division of trade that is fair to both railways and patrons, and the railways *must* each secure both tonnage and money in some proportions, for neither will ever leave the locality.

If rates and facilities are the same, why should shippers prefer one road to the other, unless it be to concentrate on the one, in order to break down the rates of both. If they thus foster strife or prefer a given route, they should pay for that preference, or divide their business fairly between both railways rather than publicly antagonize one or both of them.

The minor advantages of uniform classifications, fullness of statistics, prompt settlements at connecting points, expediting the traffic, the adjustments of responsibilities for losses and damages resulting from this harmony, also form an essential and large aggregate of valuable mercantile security.

Can there be any reasoning business or legislative doubt, which of the two courses thus outlined best prevents the wrongs of railway against railway and preferential discriminations between persons and localities, if the rates are reasonable?

These organizations have been far from perfect, and there has been much bad faith under them that would however have been worse without them; but they have cured many ills, and the more nearly they can be made like this illustration of unity, the more

surely they will correct those wrongs that yet exist within and despite their better intents.

The associated railways between the Missouri river and Chicago afford another striking illustration. No section has grown so rapidly in material values; nowhere have so many carriers successfully united to furnish in effect one system of railways at like rates for a vast commerce. No section is more sought by the emigrant and by capital; nowhere have discriminations been fewer; nowhere have railways been more promptly built to develop the arable domain with excellent facilities; nowhere do new farm lands command higher prices; nowhere is agricultural labor better rewarded; nowhere have manufacturing interests increased more rapidly, and nowhere have investments in railways been more creditable, stable and profitable. Their rates, although annually reduced in the average, are yet higher than usual elsewhere; but the rapidity of development and accrued riches under them, proves that they have not been unreasonable, but have rendered value for value, which is the essence of all rates and their reasonableness, and not mere "cost of service," which is the new anti-railway slogan.

COÖPERATION DOES NOT PREVENT INDEPENDENT ACTION.

My next point is, that the Joint Executive organization does not prevent *proper* individual independence. More than half its members represent railways that do not divide any class of business, they have no contracts with the others which do, and they can leave the organization on notice. They are as free now as when joint railway affairs were considered by old methods, to cut rates, discriminate and disorganize if they so elect, and some of them unfortunately still do it, as witness the present unprofitable eastward through rates.

The organization may now require, however, that they shall confine their quarrels, losses and wrongs, to their own properties and patrons. If a railway from Peoria to Chicago, for example, has a fighting grievance against a local rival, it has no right to cut rates all the way to the seaboard cities, making others pay say ninety per cent. of the loss, bringing down the rates everywhere else at the same time, under the geographical scale before stated, and involving millions of property it does not own.

I cite in this connection the course recently pursued by the Lackawanna Company from New York. That Railway opened through in October, 1882, but did not join the Executive organization until January, 1884. In those fifteen months, it cut the agreed rates to the extent that when it joined the Commission it had registered many hundred special westbound contracts, generally at "Twenty per cent. off tariff," meaning any tariff. Some ran "to the opening of navigation," some to July, others to May, others to August, and others were at specific rates. All were preferential and discriminating, both as to localities and persons, because they were a percentage below *any* tariff that might be fixed, and therefore involved no elements of cost, value or reasonableness. If the other lines reduced their rates, the same percentages were still to be taken off. They were secret, unlawful, and adverse to sound railway and public policy. Such rates could only be adjusted by concealed drawbacks, they injured every trader who did not get them and every railway that did, and they reanimated old skeletons that were buried in 1877, it was hoped, forever. By what right of equity or competition did that Company attack the reasonable revenues of its rivals; and by what other right could it reduce the rates all the way to St. Louis. Surely the Wabash Railway should have no preferential interest in a contest east of Buffalo, and it was its neutral and public duty to charge the disturbing line which sought to reduce its revenues, at least as much as the New York Central was paying it for the same service.

H. B. Claflin & Co. have a right to sell their own goods at any prices they elect; but they have no right to enter the counting-room of Arnold & Constable, and sell the latter's goods at the same prices, without the consent of that firm.

Neutral carriers should therefore require of all their connections reasonable and uniform rules and rates; parallel railways are entitled to know why their reasonable rates are attacked and reduced, and if they are reduced on public grounds, the public should know what those grounds are.

In this Lackawanna case the co-operative trunk lines had two alternatives:—to convince the assailant of its wrong, or re-enact railway follies and wars. They finally achieved the former just

purpose, and I challenge disproof of the railway and public wisdom of both the federated and assenting roads.

Mark another striking contrast in farther proof: The New York, West Shore and Buffalo Railway opened January 1, 1884, and having arbitrated the share of westward traffic to which it was entitled from New York, secured at least its rights, while maintaining those of the public to equal rates. Can there be any doubt which of those contrasted policies was most genuinely in the public as well as the railway interest?

HOW TRAFFIC FEDERATIONS ARE MISUNDERSTOOD.

This indispensable and beneficial railway federation is antagonized in the views quoted below, which represent an important aspect of public fallacy and prejudice.

A body that should be as intelligent as the New York State Railway Commission, says in its last report:

"The pooling contract which originated with the four trunk "lines in June, 1877, has since been extended so that the system "now embraces thirty-seven of the principal railroad corporations "in the United States. It has been found so profitable and the "power of the lines confederated into the pool over outside lines "is so compulsory, that all of them in the end must unite with "the pool."

This statement is full of errors.

Mr. Chittenden's speech at Washington, January 29, 1884, said:

"This pool commenced in 1877. It was then a contract "between the four trunk lines centering in New York. It has "grown and stretched out its arms and increased until it now "embraces certainly more than forty of the principal railroads "in this country. There is in New York City an equipped "and organized pool government. It has its Executive Committee of the Trunk Lines, its Executive Committee of the Pool, "and another Executive Committee composed of one member "from each pooling railroad. It has a board of arbitration "intended to take the place of the judiciary. Over it all is "the emperor, the Commissioner Mr. Fink, who to-day exercises "a power for good or evil over the commerce and products of "this country greater, not only than that of any of his contemporaries, but greater than any man ever before exerted in the "United States of America. He and his imperial organization "are as independent of the law as it is possible for man or State

" to be, and the whole charter or contract which binds these forty " roads into this one copartnership and confederation, judged by " the principles of the common law, is as unlawful and as much " against public policy * * * as the Louisiana State Lottery " or any other similar institution, which is confessedly without " the pale of the common law."

There is a strikingly similar passage in Cervantes :

" As they were thus discoursing, they discovered some thirty " or forty wind mills that are in that plain, and as soon as the " Knight had espied them, * * * cried he : 'Look yonder, " friend Sancho ; there are at least thirty outrageous giants " whom I intend to encounter, and, having deprived them of " life, we will begin to enrich ourselves with their spoils, for they " are lawful prize, and the extirpation of that cursed brood will " be an acceptable service to Heaven.'"

" 'What giants?' quoth Sancho Panza.

" 'Those whom thou see'st yonder,' answered Don Quixote " ' with their long extended arms. Some of that detested race " have arms of so immense a size, that sometimes they reach two " leagues in length.'"

Disregarding the obvious retort, most of the errors of these mere assertions have been dissipated by what has preceded, and it only remains to notice the falsity touching the powers given the Commissioner.

Mr. Fink is in no sense an "emperor." He cannot affect the value of "commerce and the products of this country" to the extent of one dollar. *He never has advanced and cannot advance any rate in America one cent*, because the rate making and changing power remains jealously where it always has been. Even his power of *reducing* rates exists solely in lowering all rates to the basis of discovered cuts, on demand of an accusing trunk line, as, witness the present eastward through rates. He has not as much control over rates as any one of a thousand freight agents in all parts of the country. He is amenable to all law, common or charter, that touches any man, and his voice, influence and efforts are unmistakably and continuously in aid of giving non-discriminating public effect, to the common law principle of the equality of reasonable rates under substantially similar conditions. If that be "without the pale of common law" it is the law's dishonor and the "pool's" honor.

PUPLIC OPINION BEGINS TO FAVOR RAILWAY UNITY.

That approving views of this unity are rapidly gaining ground with the just and intelligent public I fully believe. I here copy recent general utterances favorable to "pools," the more significant in that they are, I believe, generally from sources that at one time opposed them.

"They have brought about a change for the better from that "which prevailed before the pooling arrangements were made." —*Simon Sterne, Counsel New York Board of Transportation.*

"The pooling of traffic has, as already stated, secured a certain "degree of public favor from the fact that where honestly and "effectively carried out, it has proved to be instrumental "* * * in putting a stop to that vicious form of discrimination, "special rates to favored shippers, usually the largest shippers, "and in greatly reducing that most objectionable of all practices, "discrimination against commercial and industrial towns and "cities—and against States and localities."—*Joseph Nimmo, Chief of the Governmental Bureau of Statistics.*

Pooling "certainly has good points for shareholders and the "public. It does prevent to some extent unjust discriminations "—it aims to treat all alike."—*Charles S. Smith, Chairman Transportation Committee, New York Chamber of Commerce.*

"The pool * * * is the friend of peace and as such "unalterably opposed to war. It does not destroy com- "petition * * * but rather restrains competition within "reasonable bounds. The pool, moreover, is as invaluable to a "shipper as it is to the railroad, for while by the maintenance of "rates it insures to the latter profitable returns to the share- "holders, to the former it insures equality of treatment with "others of his kind, by fixed and unvarying schedules."—*New York Commercial and Financial Chronicle*, 1883.

"Pools certainly do not encourage extortion. * * * In so "far as pool commissioners base their operations on the import- "ance of overcoming favoritism, they command genuine respect." —*St. Louis Globe-Democrat*, 1884.

"With an assured basis of this character, merchants could give "their exclusive time and attention to a wholesome development "of trade, instead of as now, spending a large portion of their val- "uable time in hunting up the agent, who is liable to give the "inside figures."—"*Large Shipper*" *in Indianapolis Journal*, 1884.

"The pooling agreement of the great trunk lines was intended "to guarantee to the public a fixed and uniform schedule of

" rates. * * * The war of rates certainly shows the evil of " unregulated competition between rival railroad lines. * * * " The continuation of such competition could only result in dis- " aster, first to the weakest line, then to the next weakest, and so " on until only the strongest survived. The final result of such " a process of evolution would be absolute monopoly."—*New York Times.*

A railway pool " is an agreement among them for each to " accept its share of the competitive business at a moderately re- " munerative rate common to all."—*Professor Atwater, of Princeton College.*

" Railway pools should not be abolished, they should rather be " carried further and perfected. Finally, they should be taken " possession of by the government, and without losing sight of " the rights of stockholders and creditors, managed by it in the " interests of the people."—*Writer in Chicago Tribune, March*, 1884.

" The pool operates to prevent unreasonable and unfair dis- " crimination and favoritism between shippers. * * * The " pool which fixes reasonable rates and prevents disastrous wars " of rates, thus promotes public interest in an adequately service- " able and efficient system of internal transportation."—*Chicago Times, March*, 1884.

" Railways have made foreign commerce profitable by creating " markets for imports and by providing return cargoes in agricul- " tural, mining, and manufacturing exports. They have added " directly to the wealth of the whole country and of every citi- " zen. While doing this work, they have steadily reduced their " transportation rates, until on the rates of 1880, as compared " with those of 1866, they have saved to the producer and con- " sumer a sum equivalent to one cent per ton per mile, which, " on the freight moved in 1880, amounted to more than " $323,000,000. A monopoly which can accomplish such results " ought certainly to be considered a beneficent monopoly."—*C. Stuart Patterson, in Princeton Review.*

" There has not, for near two years, been a single complaint " made to this office. Our people are at peace with the railways, " as much so as any people in the Union. Our courts afford a " remedy against discriminations and rebates."—*H. Sabine, Commissioner of Railways for Ohio, in letter dated February* 21, 1884.

The purpose of this article is to aid in extending this public opinion and state railway peace to inter-state traffic, to do which, requires as much the national aid to accomplish it nationally, as it required state aid to secure it in the commonwealth of Ohio.

WHAT THE PUBLIC IS ENTITLED TO ASK OF RAILWAYS.

In defending the co-operative railway unity which is thus beginning to command the approval of the public, I do not ask that the protection of its great transportation interests be left entirely to that agency. There will always be honorable railway officers who demand the consideration of the public interest from high motives, and others, who perhaps take the more sordid view, that in protecting public interests they add to their own, but even both considerations, added to the powerful water and trade limitations hereinafter cited, may not act as adequately and continuously as they should.

Conceding, therefore, Lord Coke's apothegm that "railways are "affected with a public interest," and to Judge Nelson, that they "have public duties to perform," the public is entitled to ask:

First.—That all railway freight rates be reasonable.

Second.—That they shall not be unduly discriminating or preferential as between persons or localities for substantially like transactions.

Third.—That proper freight tariffs, together with the defensible and just commercial concessions from them, be given such publicity as to prevent the unjust abuse of the just principle.

Fourth.—That all attempts to evade any of the foregoing public requirements, by concealed or other drawbacks or preferences should be legally prevented.

All just commercial railway grievances fall within some of those admitted boundaries.

Upon these various heads—and *first*, as to reasonableness.

If success in "pools" stimulates railway avarice or wrong to charge more than is reasonable, the national legislature can surely consider and reduce interstate "pool" rates as legally, quickly and effectively as it can any other "contract between railways to establish rates which is not pooling."

It is not pertinent to this article to discuss what "reasonable rates" are. They vary so much in different parts of the country and with seasons, grades, quantities, articles, risks and values, that no rule can be formulated. I only insist in passing that "cost of carriage" cannot decide it. Any carrying service is clearly worth its value to the buyer rather than to the seller of transporta-

tion, because the buyer does not pay unless he uses the railway, for a venture which he alone decides, while the railway having completed its line, and spent its money, must bear the risks of non-use, and is therefore entitled to more than cost in any event, when it is used, otherwise some part of its services is a public gratuity which no one can require. "The difference between "what a product is worth and what it has cost is sometimes quite "large."

An able French writer on transportation has said:

"The *cost* of production * * * is only *one* element of "the *value*." "An article of transportation, like every article of "goods and like every service, has a *value*. * * * We "should pay for it *not what it costs but what it is worth*."

Clearly, however, the legitimate and commercial, or preferential and monopoly considerations which decide good and bad railway management to charge this or that reasonable or unreasonable rate, as also railway greed, rapacity and stock jobbing, are each and all as deciding and forceful when charges are fixed by mere agreements upon rates alone, as when rates and all other questions are settled by co-operative traffic unity. What differences *can* exist either of motive or opportunity?

I go farther, and railway history will prove that hasty conferences "to merely establish rates" usually result in the higher charges because the parties feel that they will try them and can speedily change, if they cannot maintain them. Under well-digested co-operative agreements intended to be permanent, rates receive more careful consideration from points of public as well as railway view. Most railway disturbers will also make secret rates under temporary agreements, at which they would hesitate in long-continuing "pool" contracts which should not and cannot avoid publicity in their essentials, and never in their charges. If parties to these plastic agreements to establish rates, have smouldering intents to use them to cloak rebates, or seize another railway's patrons, they are sure to advocate high charges, because their alphabet is, that the higher tariff rates are, the more money they can retain after they pay the drawbacks.

The same men, in perfecting equitable unity intended to be lasting, and framed to secure and keep all the revenues agreed

to be charged, will make the first rates lower than otherwise, because if they are uniformly maintained, the railways will yet *net* more money, than from higher nominal rates depleted by those secret allowances which all traffic organization is intended to prevent.

CAUSES PREVENTING EXTORTION BY "POOLS."

But the logical inquirer into this problem often asks: "What is to *prevent* you from strengthening and enlarging your combination so that unreasonable rates will be enforced."

To this admittedly fair question I answer:—

It has not yet been done, but on the contrary, many prominent reductions in rates have been shown. There is less general business to carry now than in 1882, and two new Trunk railways to carry it, the Lackawanna and West Shore. If the Trunk Line Commission were an extorting monster and no reasonable facts or considerations limited its charges, it would advance them so that each of the old lines would get as much money from its reduced tonnage, as it received before the new-comers depleted its larger traffic, but no advance in rates has been made from that cause.

The restraining force of public opinion, and respect for the common and statute law, operate upon railway traffic management with more power than is popularly known or believed. Railways dislike to create public issues as to their charges, and do much more to avoid than stimulate them, and I refer in confirmation of this averment to every State Railway Commission in the Union. Railways co-operate with and concede to them far more than they antagonize or dissent from them.

The people's interests are protected by the water ways. Senator Windom said to the Senate, in June, 1878, after his Committee had laboriously studied this subject:

"The chief instrumentalities by means of which those (com-
"petitive) forces will exert their power are the Mississippi river
"on the one side, and the northern water routes on the other.
"Each is needed to regulate the other and both are regulators of
"railway charges."

Mr. Fink says: "To destroy competition railway pools must be able to accomplish the following feats:

First—"They must fill up the Erie canal.

Second—"They must dry up the northern chain of lakes.

Third—"The sources from which the Mississippi and other "navigable rivers derive their waters must be stopped; and

Fourth—"The sun must be extinguished and the evaporation "and condensation of water prevented."

And I add that the tides must cease and oceans be sponged away.

Let us suppose, however, that the participants in the New York organization *intended* to charge unreasonable rates. They would be controlled by the Erie canal and St. Lawrence river and the great lakes, which, in their seasons, fix surer definitions of reasonable rates than can Congress or juries. The ocean never ceases its competitive tides; the Isthmus route limits rates to the Pacific coast; and the Ohio, Missouri, Tennessee, Cumberland, Illinois, Red, Arkansas and Mississippi rivers do not "pool," except with Neptune when they reach the Delta.

This nation has about 35,000 miles of these rival and free water routes, over five-sevenths of it always active, and the remainder abnormally active in seven months to secure a year's result, and these exceptional transportation safeguards are more potent and protective than law or armor. The whole constitutes the arterial rate governing system from the producing and trading heart of the nation to its circumference. The laws of tides, currents and seasons cannot be surmounted or evaded by puny railway agreements or combinations. Natural limitations bind railway rates down inflexibly; they are the *true* anti-monopolists, the legislators' security, and the public defense against the menace of organized excess on the vast majority of our tonnage movement. The proof of their value lies in the unchallenged fact that our rail rates average lower than any similar rail transit in the world. With the constant improvements of water courses at vast national cost, in some instances by legislators who vote river and harbor appropriations, yet attack the railroads, the average railway rates of the country are reduced annually and can never rise above this imperious and imperishable natural competition.

Finally, on this point I wish to set out in bold relief the fact that rates are and always must be made, within and in pursuance of organized railway unity, from precisely the

same causes and within the same limitations that would operate with equal force if no "pools" existed. If, for example, wheat is selling in Chicago at one dollar per bushel and in New York at one dollar and ten cents per bushel, no "pool" that can be conceived would secure its railway movement at a rate of twenty cents per bushel, or twice the mercantile margin; and if corn freights and charges, by lake and canal, from Chicago to New York, are ten cents per bushel, the most adroit, monopolistic and extortionate "pool" that can be concocted, cannot charge fifteen cents per bushel for its rail transit. Traffic unity assures the public in its interest, that if say twelve cents per bushel is reasonable and can be maintained by rail, no railway or forwarder shall be wronged by a secret rate of less amount.

In the face of these universal transportation facts, the talk of national railway extortion by "pools," or the ordinary chameleon-hued "agreements which are not pools," is meaningless, idle and unintelligent, or it is insincere. Exactly to the contrary, they have reduced, equalized and rendered reasonable and non-preferential, every rate they have established or influenced, when carried out simply in good public and railway faith.

EQUALITY, PUBLICITY AND UNIFORMITY OF RATES.

The *second* point granted was that rates should not be preferentially discriminating as between persons or localities for substantially like transactions, and I ask if such preferences and discriminations are more likely to exist under "pools" than without them? The railway history of the country under the two systems, as inadequately and unfaithfully as freight federations have been observed and tested, utters the answer plainly, and all the reasoning and facts herein urged fortify the public under them against the wrongs they suffered before they had them, and so conclusively that there is no longer need to even discuss the opposite view.

The *third* point conceded was proper publicity of tariffs and changes in them, as well as the scales of allowances, if any, made to manufacturers of crude materials, intended to reappear in finished forms; such as lumber into furniture; ores into castings and forgings; cotton into fabrics; grain into flour, etc., etc.

Such concessions are world-wide and defensible, are calculated to develop industry and stimulate thrift, and traffic unity would make them reasonable, public and uniform. Primarily it may be no part of a railway's functions to exercise these mercantile offices, but if it passes through coal, limestone and iron ore, yet does nothing to interest its own and other capital and labor to develop them, it is no less a railway than a public loss. Without such railway stimulation and aid many a town, prosperous to-day in its industry and peaceful in its homes, would be only a rocky hillside or a fallow meadow.

I cordially sustain the *fourth* point—that concealed drawbacks and allowances creating inter-state and discriminating results, should be forbidden by law, except that such prohibition should not interdict defensible commercial allowances.

To illustrate: The government refunds internal revenue taxes first paid on whisky exported, by a rebate defensible on national grounds. I similarly maintain not only the equity, but the national need of a fair export railway drawback from fair rates, if this country could not otherwise command a proper share of the grain markets of England against the rivalry of India or Odessa. If a fixed rate on grain from Chicago be 30 cents per 100 pounds to consumers in New York City, and that rate is reasonable *per se*, it is no undue discrimination, if a fair part of that charge be necessarily refunded upon proof of export to London. The one rate pushes American cereals into markets they could not otherwise maintain, and the other, although higher, gives our own people the cheapest breadstuffs in the world. That is defensible railway and public wisdom, if the allowances are uniform and have publicity with other rates and regulations. When the government waives its charges to aid the export of whisky, although foreigners may perhaps for that reason drink it cheaper than we can, it is not called national discrimination, but protection or encouragement.

Beyond such just allowances on public and fair scales, *I believe that all other inter-state drawbacks or concealments should be stopped by law.* Next to such law, traffic federations can and will prescribe just, uniform, and universal rules, and due publicity; and the railway officers, who are intelligently and fairly

endeavoring to perfect traffic unity in that spirit, should be held as reformers stopping public abuses, and not as malefactors inaugurating them; but both federal and state law should aid them, as it aids various societies for the prevention or suppression of vice and crime.

ALL GREAT INTERESTS MUST UNITE AND CO-OPERATE.

To secure all the advantages thus claimed and conceded, co-operative railway unity is indispensable, if we may judge by the logic of analogy. We already have various State governments, independent within limits, but the argument would be preposterous which said that national control, regulating while protecting all, is centralization and usurpation, and that there should not be a common Congress, Departments, Executive and Judiciary. States must respect the nation, the nation the States. The civil war decided those civil issues precisely as rate wars led railways to adopt the analogy of the general government in carrying on their local and inter-state, public and private functions. Chancellor Kent said:

"The States' origin and their interests were the same, * * "they were naturally led to a very intimate connection, and "were governed by the same wants and wishes, the same sym- "pathies and spirit. * * A Congress of two Commissioners, "delegated from each colony, was to be held annually, with "power to deliberate and decide on all affairs of war and peace, "and on all points of common concern."

This unassailable policy of state federation by and within the law, secures to a nation unity and international respect, and gives us one flag. The nation must have its Congress and the President his executive committee or cabinet, as the heads of Departments. When they are antagonistic, business suffers, public confidence is undermined and deep apprehensions are aroused. A government with each department pursuing its own and a different policy would be justly derided, and the responsible political party would be displaced, unless the President promptly performed his clear public duty and disciplined, or dispensed with, the malcontents.

States have their county governments, counties their municipalities, and municipalities their police, and every profession, business, charity and government, must concentrate the influences and authority needful to unify, equalize and shield its different

interests. Organized stock exchanges are indispensable to fiscal regulation and values, produce exchanges and boards of trade to mercantile prices and probity, clearing houses to banks, maritime exchanges to marine enterprises, chambers of commerce to unite varied trade influences, etc., etc., and they are all legalized trade helps and equalizers.

Bank and insurance examiners are deemed essential in the public interest to the rigid enforcement of sound business principles, conservative methods, and the preservation of corporate capital unimpaired, in order that insurers and depositors may not lose theirs. Some authority must exist in every calling that is central, respected, definite and disciplinary, and that is recognized by the common or statute law, not merely as permissive but needful public safeguards and instrumentalities, and in no other way can any work be respected or respectable, potent for good or against wrong, or make its results salutary and forcible.

When, however, railways conform to these universal principles and methods, railway legislation and commissions not only do not encourage them, but they do not hesitate enough at unsound, hostile and depreciating laws and orders, which affect unjustly the very securities on which many callings and charities are largely founded.

HOW FOREIGN GOVERNMENTS HAVE MET THIS PROBLEM.

All the foregoing facts and reasons influenced and reflect the conclusions at which foreign governments arrived, after years of futile trial.

Charles Francis Adams, Jr., said, in his report of 1872, as chairman of the Massachusetts Railway Commission:

"A more thorough unification of railroads * * * would "seem to be an universal and necessary law of their growth, in "Great Britain as in this country. The tendency at one time "excited great public alarm on political considerations, but "Parliament found itself wholly unable to check it. In Belgium, "the government seems to have made no effort to check it, while "in France and Germany, the policy has been to encourage it."

In confirmation of this, the present English Clearing House act recites the advantages of, and legalizes railway unity as follows:

"*Whereas*, For some time past, arrangements have subsisted "between several railway companies for the transmission, without

"interruption, of the through traffic in passengers, animals, mine-
"rals and goods passing over different lines of railway, for the
"purpose of affording in respect to such passengers, animals,
"minerals and goods *the same or like facilities as if such lines*
"*had belonged to one company, etc.;* and Whereas, The clearing
"system has been productive of *great convenience to the public,*
" * * * but considerable difficulty has been experienced in
"carrying into effect the objects of the association, in consequence
"of the committee not possessing *the power of prosecuting or*
"*defending actions or suits, or taking other legal proceedings,*
" * * * be it enacted," etc., etc.

Under this act, Mr. Gladstone acted, in 1857, as arbitrator, "or the judiciary," to divide traffic from London between four companies for fourteen years, precisely as it has been divided from New York in a similar but localized clearing system among four roads for a shorter period, and he even then compared favorably with some of our present opponents, as a publicist, statesman and legislator.

The committee of the German Empire reported, prior to the purchases of its main railway lines by that government:

"*The uniting of the property, of the traffic and of the manage-*
"*ment* of the inland main lines under the strong arm of the
"State, are the only efficient and proper means to solve the task."
This clearly is a governmental "pool."

Of France, Mr. Adams said, in 1872:

"The companies do not profess to compete, and the entire
"country is districted and *no rivalries are permitted* within
"assigned territories."

This is the most absolute "pool."

Belgium has purchased the principal private lines in its borders, corporate rivalry has ceased, and the government has, in effect, "pooled" all its railway receipts.

Can the unity or "pools," which have proved so desirable as governmental measures in so many nations, be wrong as an American railway measure if the rights of its citizens and railways are similarly and equally protected? Assuredly the question carries its own answer, and it only remains to say how the rights of both *can* be so protected.

To that end I re-advocate what I said at Washington in March, 1882, more heartily than it was first uttered :

" I have no hesitation in recording the conviction, that if the " government of the United States would give legal effect, like " England, to the association of American railways, now organized " under the title of the Joint Executive Committee, or to their " Board of Arbitration, by which it might prosecute or be prose- " cuted and defend, and thus give the national sanction and a " semi-public character to the federation of the companies, the " unity of their management, and the uniformity of their rates, " and then further enact the appointment which I shall urge " later on, of a national railway commission to co-operate with and " not oppose this recognized committee, then the unreasoning " public clamor which now seeks the enactment of hostile rail- " way legislation unknown to the world, would not only cease but " be entirely harmonized in the unquestioned public satisfaction " that would follow."

If this view were conceded, the national transportation interest would be reduced to a homogeneous and legalized whole, performing the carrying needs of a vast and growing people and commerce,with that contrasted equity which the following illustrates :

The charges for carrying the mails on star routes have bred public scandal and wrong, because there was no rule of uniformity in basis, action or compensation, and there was too much freedom given to subordinate individual judgment and action, as is the case when railway wrongs thrive most. No one hears of discrimination, evil or scandal from the railway charges to the government for carrying the same or any mails because they *are* based on uniform and conference rules, rates and payments ; and the postage charges of the government are in their turn, alike and non-discriminating to all users of like privileges. If the government controlled the railways it would be required to adopt the same principle of uniform and non-preferential freight charges, and would enforce them by its universality and power. Why then should not the same government, encourage and enforce railway agreements looking to precisely the same desirable results under corporate management ?

RAILROADS WOULD BE UNITED IF UNDER GOVERNMENT CONTROL.

If the government purchased the railways of the country, as many advocate, the central and unifying power over them would dwell at Washington in a Governmental Railway Direction, Commission, Executive Committee or Board. The Director of the Northwestern system, from Chicago to St. Paul, would be directed to desist from attacks on the Omaha system? If the Directors of Railways for New England assailed the Department of New York, or the Department of the Mississippi surreptitiously diverted the trade of the Department of the Ohio by unequal rates, preferences or inducements, the authorized national power would admonish the assailing and protect the assailed officers and districts.

It would be needful for it to reconcile and adjust international carrying agreements with Canada and Mexico; and as essential that it harmonize local but competing interests within one state, as through rates between many states and territories.

All the receipts from governmental railway traffic would surely go into one and the general government purse or "pool," competition would be ended and forbidden, as it is in the postal service; discriminations would cease, as in the collection of duties and taxation, but the gross receipts would require to be apportioned to this or that railway or department, as they are now in the mail service and revenue and land departments and their sub-divisions, in order to show the incomes, expenses, profits, efficiency, honesty or dishonesty of administration, etc., etc., of each.

If no adequate powers to these essential ends existed in the laws, Congress would promptly enact the requisite legislation, and conferences between the Departmental managers would necessarily be called at Washington to avoid such strife, and shape intelligent, uniform and harmonious national railway action.

The present railway Executive Committee does not go beyond a similar focus of action, but seeks to achieve it through co-operative unity of management, and impartial arbitration.

Could railways be managed in any other than this essentially co-operative and unified way by the government, and if not, why is the problem easier to individuals possessing less power?

Railway agreements relating to inter-state traffic should therefore be filed with a National Railway Commission and the United States District Attorneys, and the latter should be required to take action in the United States Courts upon verified complaints of their violation to an extent requisite to enforce uniform reasonable charges, both against each railway, and shippers that sought or knowingly accepted preferential inter-state rates. Such agreements would then be so cautiously, conservatively and impartially drawn, and the public would be so well protected within and without them, that most of the railway ills of the nation would disappear like the "fabric of a vision" under such legal supervision and public scrutiny. Under railway contracts so legalized, while publicly watched and guarded, honest railways or forwarders could cite others to legally establish like honesty of purpose and action and stop unjust practices, although but few cases would ever be permitted to reach that issue. When, however, courts enforce other contracts and the Constitution guarantees their inviolability, why should railway agreements in the interest of public equality and reasonableness be exceptions, merely because they provide at the same time for railway equality and reasonableness?

If such national sanction as to inter-state agreements could be supplemented by the like confirmation by States as to competition within their limits, there is no question whatever, that the just mean of public and railway protection would be reached and remain assured.

SIMILAR TRADE ORGANIZATIONS LEGALLY PROTECTED.

The "New York Clearing House Association" is a voluntary non-chartered and non-incorporated federation of sixty-three banks, organized in 1853, representing a vast capital. Its clearances in 1882 were $41,862,148,453, or fifty-four times as much as the gross receipts of the railways of the Union in the same year, which were $770,356,716. It has a Manager and five committees, including one for arbitration. Its Constitution says its object is "the effecting at one place of the daily exchanges be-"tween the several associated banks and the payment at the same "places of the balances resulting."

This banking "pool" has proven its great and conservative value as a barrier to financial avalanches. It aided the government in the crisis of its war finance, and has introduced and sustains stable, uniform and conservative banking methods.

If the banks of one city require this unity, do not railway interests yet more require "the effecting at one place of the daily "exchanges between the several associated" railways.

The New York Stock Exchange has a constitution, by-laws, rules, orders, penalties and an executive committee. Its rulings determine what securities may be properly admitted and quoted, and its rates of commission may not be cut by its members. Its regulations are enforced by the courts and its members are expelled who violate them. It is legally protected in a mere joint-stock organization which makes varying *fiscal* charges for railway bonds and shares, while agreements by railway corporations to secure stable and non-discriminating *carrying* charges are declared "without the pale of law."

The Produce Exchange of New York is a chartered corporation, under the title of the "New York Commercial Association." Its rules enforce honorable dealing between its members, it has twenty-five committees, beside a Complaint Committee and a Board of Arbitration, and its receipts are pooled for the common good of its members. When the railways seek to give the transportation element in the same articles traded in upon its floor legal permanence and equality by similar organization, committees and rules, the people and Congress are loudly told it is a railway conspiracy and should be opposed in the public interest.

The fact that either of these two latter bodies are not infrequently used by speculators to wrong the public, does not detract from their legality or their great aggregate usefulness and value.

A proper "New York Railway Association" for similar purposes is even more essential to its own business and its public value, than these and other trade Exchanges, because the railways in some manner relate to, or carry the traffic of them all. A railway officer who has signed agreements and rules to maintain fair rates intact in such an association, yet violates his faith, pays surreptitious drawbacks, and creates unlawful preferences, is too

frequently displayed as a public benefactor, his act credited to legitimate competition and his treachery encouraged, when he would be expelled from the floor of either of the exchanges named for similar action touching a private agreement. It is a fact that a merchant who may use his every personal endeavor to break a railway agreement, will render judgment as an officer of an Exchange, against any one who breaks any other rule or covenant on its floor.

CONCLUSION.

Congress, the States and trade organizations should, therefore, firmly discountenace theories that encourage and perpetuate corporate contention in the interests of stronger against weaker persons and railways, and which in that view clearly foster individual and corporate monopoly. The services of the railways in creating national wealth, by thrusting our products into new markets, in equalizing the valleys of the Susquehanna and the Missouri, in bringing the earth's resources down all the human avenues to industry, and constantly cheapening their charges for doing all this, surely entitle them to a nation's kindness rather than its kicks.

Legislation has not done this, "pools" have not thwarted or delayed it, monopoly has not prevented it, extortion has not surmounted it, neither have congressional penalties nor immunities hastened it, but the unaltered and unalterable laws of human industries and interests, and the ceaseless equalizing of tides and streams have secured it. The country therefore owes to railways conservative protection against radical assaults; and their co-operative traffic federations, which are intended, within just limits, to secure uniformity, stability and impartiality among railways, their patrons and the States, should be reinforced, ratified and legalized by an intelligent public conviction.

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